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*Attorneys for Plaintiff*

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF MARICOPA**

STATE OF ARIZONA, *ex rel.* MARK  
BRNOVICH, Attorney General,

Plaintiff,

vs.

LANDMARK HOME WARRANTY, LLC, a  
Utah Limited Liability Company.

Defendant.

Case No. **CV2021-001326**

**COMPLAINT FOR INJUNCTIVE AND  
OTHER RELIEF**

(Unclassified Civil; Consumer Fraud)

Plaintiff, the State of Arizona, *ex rel.* Mark Brnovich, Attorney General (the “State”), alleges the following for its Civil Complaint (the “Complaint”) against Defendant Landmark Home Warranty, LLC (“Landmark”):

**INTRODUCTION**

1. Landmark is a regional home warranty company that sells home service contracts to Arizona consumers.

2. Consumers paid substantial premiums to enter into these agreements, based on the promise that Landmark would repair or replace home appliances and systems if they broke.

3. Most notably, Landmark promised that if consumers suffered a complete loss of air

1 conditioning in “extreme temperatures,” Landmark would “make reasonable efforts to expedite  
2 service within 24 hours.”

3 4. Expedited service is critical in Arizona, where temperatures frequently reach over  
4 110 degrees Fahrenheit during the summer months.

5 5. Landmark promoted this feature of its service in its advertising, including its  
6 website and social media pages.

7 6. Landmark also posted infographics describing what constitutes a “heat emergency”  
8 and outlining when consumers could expect expedited service.

9 7. However, Landmark soon realized that Arizonans frequently experienced a loss of  
10 air conditioning in extreme temperatures. Landmark could have expedited service for those  
11 Arizonans by paying third-party technicians to prioritize Landmark’s customers, as it had  
12 promised, but doing so would have cut into Landmark’s sizable profit margin.

13 8. In order to preserve its profits, Landmark decided to pervert its promise. Landmark  
14 instructed its employees that unlike other states where Landmark operated, “extreme  
15 temperatures” for Arizona only existed if the *low* temperature was 100 degrees or more, or if the  
16 temperature has been over 100 degrees for 24 hours straight. Neither condition has ever existed in  
17 Arizona’s recorded history.

18 9. Landmark’s decision led to increased profits for the company, and predictably  
19 devastating results for consumers. According to Landmark’s own records, in summer 2018 and  
20 2019, about *half* of Landmark’s Arizona customers requesting air conditioning service had to wait  
21 *over a week* for a Landmark-selected technician to even examine the air conditioner.

22 10. To make matters worse, even after the technician examined the air conditioner,  
23 consumers had to wait for Landmark to decide whether it would approve the repair or  
24 replacement. If Landmark eventually did approve the claim, which was not guaranteed, consumers  
25 reported having to wait 30 days or more for repairs to be completed.

26 11. Unable to bear the summer heat, consumers were forced to make difficult sacrifices  
27 while waiting for Landmark to fulfill its obligations. Some consumers checked into hotels at their  
28 own expense just to be able to sleep at night.

1           12. Consumers who did not have the luxury of being able to leave their homes while  
2 waiting for repairs were forced to suffer in their homes, which often internally reached 90 degrees  
3 or higher. Under Landmark’s policies, these conditions would have constituted “extreme  
4 temperatures” in other states, but in Arizona, Landmark forced their customers to suffer through  
5 these conditions in order for Landmark to increase its bottom line.

6           13. In these brutal conditions, some consumers even lost their pets due to heat  
7 exhaustion, causing both financial loss and loss of love and companionship.

8           14. Other consumers, frustrated with Landmark’s substandard service, reached out to  
9 other local technicians who could complete the repair in a reasonable amount of time.

10          15. Under the contract, consumers could receive compensation if they worked with  
11 other technicians, but only if the consumers received prior approval from Landmark.

12          16. In practice, however, consumers reported that Landmark would not approve the use  
13 of other technicians, even in situations that in which the consumer should have been entitled to  
14 expedited services under the contract.

15          17. Landmark then used this lack of approval as a basis to deny the consumers’ claims if  
16 the consumers hired another technician.

17          18. Landmark did not compensate consumers for their significant losses caused by its  
18 deceptive conduct. Landmark either denied the consumers’ claim outright or offered a meager  
19 “Cash in Lieu” alternative that would cover only a small portion of the overall repair costs.

20          19. Landmark also refused to pay for consumers’ ancillary expenses, most notably hotel  
21 expenses.

22          20. Landmark’s promise to expedite service in the case of “extreme temperatures” was a  
23 deliberate deception to encourage Arizona consumers to sign up for its home warranties, and  
24 Landmark knew that consumers would not be able to take advantage of its promised “reasonable  
25 efforts to expedite services” under the written policy.

26          21. Landmark collected over \$14 million from Arizona consumers, but few, if any, of  
27 those consumers would have purchased Landmark’s services if they had known the truth about  
28 Landmark’s deceptive and unfair “extreme temperatures” policy.

1 **JURISDICTION AND VENUE**

2 22. The State brings this action pursuant to the Arizona Consumer Fraud Act, Arizona  
3 Revised Statutes (“A.R.S.”) §§ 44-1521 to -1534, to obtain injunctive relief to permanently enjoin  
4 and prevent the unlawful acts and practices alleged in this Complaint, and to obtain other relief,  
5 including restitution, disgorgement of profits, gains, gross receipts, or other benefits, civil  
6 penalties, and costs and attorneys’ fees.

7 23. This Court has subject-matter jurisdiction.

8 24. This Court may issue appropriate orders both prior to and following a determination  
9 of liability pursuant to A.R.S. § 44-1528.

10 25. Landmark caused events to occur in this state out of which the claims that are the  
11 subject of this Complaint arose.

12 26. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(17).

13 **PARTIES**

14 27. Plaintiff is the State of Arizona *ex rel.* Attorney General Mark Brnovich, the  
15 Attorney General of Arizona (“the State”), who is authorized to bring this action under the  
16 Consumer Fraud Act (the “CFA”), A.R.S. §§ 44-1521 to 44-1534.

17 28. Landmark is a Utah limited liability company with its principal place of business in  
18 Maricopa County, Arizona.

19 **ALLEGATIONS**

20 **I. Landmark’s Business Model**

21 29. Landmark is a regional home warranty company headquartered in Arizona.

22 30. Landmark offers home warranty services in a number of western and southwestern  
23 states, including Arizona, Texas, and Nevada.

24 31. Landmark asks consumers to pay hundreds of dollars per year in exchange for a  
25 promise that Landmark will help those consumers by repairing or replacing their appliances when  
26 they break down.

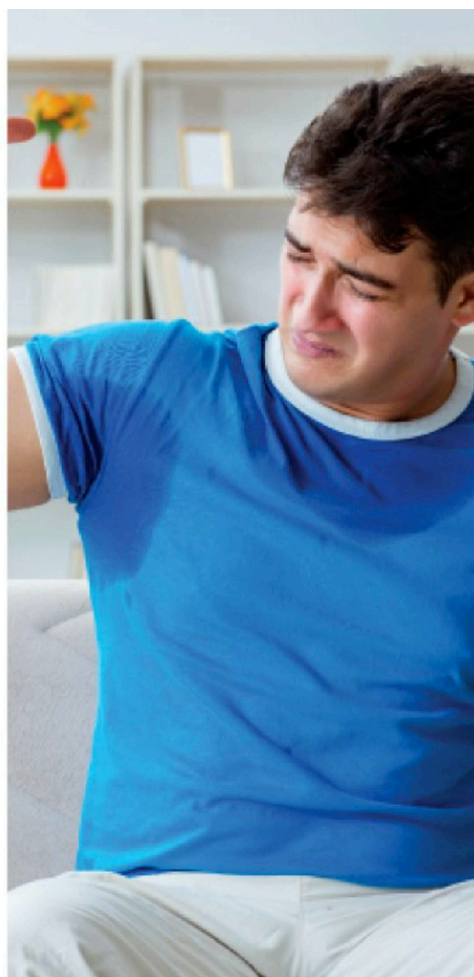
27 32. Although Landmark promises to assist consumers when appliances break down,  
28 Landmark does not have its own technicians, nor does it allow consumers to hire their own

1 technicians and send Landmark the bill.

2 33. Instead, Landmark contracts with independent third-party technicians, assigns each  
3 consumer claim to one of those technicians, and tells consumers that they must wait for those  
4 technicians to address the problem.

## 5 II. Landmark's Advertising to Consumers

6 34. Landmark prominently featured the need for speedy air conditioner repair in its  
7 advertising, including email ads showing sweating consumers and emphasizing the threat posed  
8 by a broken air conditioner, such as the following:



27 35. As part of its consumer contracts, Landmark included a clause that promised that “in  
28 the event of an emergency, [Landmark] will make reasonable efforts to expedite service within 24

1 hours.”

2       36. In its consumer contracts, Landmark defined a number of different circumstances as  
3 an emergency, including “complete loss of heat or A/C in extreme temperatures, as defined by  
4 [Landmark].”

5       37. Over 26,000 consumers in Arizona have entered into home warranty contracts with  
6 Landmark since January 1, 2016. From those consumers, Landmark has collected at least  
7 \$14,702,000.

8       38. Every summer, thousands of Arizona consumers with Landmark home warranties  
9 called Landmark regarding air conditioning issues.

10       39. Landmark received approximately 10,000 such requests over the last three summers  
11 (according to Landmark, 3,259 in May 1 – October 31, 2017; 3,640 in May 1 – October 31, 2018;  
12 and 3,189 in May 1 – October 10, 2019).

13       40. Unfortunately, the company failed to honor its promises to these consumers, with  
14 consumers often waiting far more than 24 hours to receive service for their air conditioner.

15       41. In particular, in 2019, according to Landmark’s own statistics, only 8% of  
16 consumers who made air conditioning requests during the summer months received an  
17 appointment date with a technician within 24 hours.

18       42. Disturbingly, according to Landmark’s own statistics, only 47% of consumers  
19 received an appointment date with a technician within *seven days*, leaving them without air  
20 conditioning in the interim.

21       43. In other words, in summer 2019, Landmark forced a majority of its Arizona  
22 customers suffering from broken air conditioning to wait over a week before even the initial  
23 appointment.

24       44. Though Landmark has attempted to minimize its conduct by stating that it internally  
25 “assigned” 98% of consumers to a third-party technician within 24 hours, this offered little  
26 consolation to the consumers who paid Landmark for their home warranty and had to wait more  
27 than a week for their air conditioning issue to even be diagnosed by a third-party technician, much  
28 less repaired.

1           45. These outrageous statistics are no accident. Instead, they reflect the predictable  
2 result of calculated decisions by Landmark to increase its profits by delaying air conditioning  
3 service to consumers.

4           46. Although Landmark's contract assures consumers that they will make reasonable  
5 efforts to expedite service within 24 hours when the consumers experience a "complete loss of ...  
6 A/C in extreme temperatures, as defined by [Landmark]," Landmark's various definitions of  
7 "extreme temperatures" for Arizonans from 2017 to 2019 have been anything but reasonable, and  
8 in fact have ranged from non-existent to impossible to meet.

9           47. In 2017, for example, in a bulletin to employees, Landmark defined extreme  
10 temperatures in Arizona as when "the LOW temperature for the day is 100 degrees."

11           48. On May 11, 2018, Landmark issued another employee bulletin, which stated that for  
12 an Arizona customer to receive expedited service for air conditioning, "the temperature outside  
13 has to be at least 100 degrees for 24 consecutive hours."

14           49. No city in Arizona has ever recorded temperatures of at least 100 degrees for a  
15 constant 24-hour period, nor has the low temperature ever reached 100 degrees Fahrenheit.

16           50. As a result, no consumer in Arizona could possibly satisfy Landmark's definitions  
17 from 2017 to 2018, making Landmark's promised "reasonable efforts to expedite services" under  
18 its written policy a cruel joke.

19           51. In February 2019, after Landmark received a Civil Investigative Demand from the  
20 State, the company circulated an internal announcement concerning its expedited services policy  
21 for air conditioning problems.

22           52. The announcement defined extreme heat as "when the temperature exceeds 90  
23 degrees Fahrenheit in the home," but then stated that this was only for certain states, such as  
24 Idaho, Oregon, and Utah.

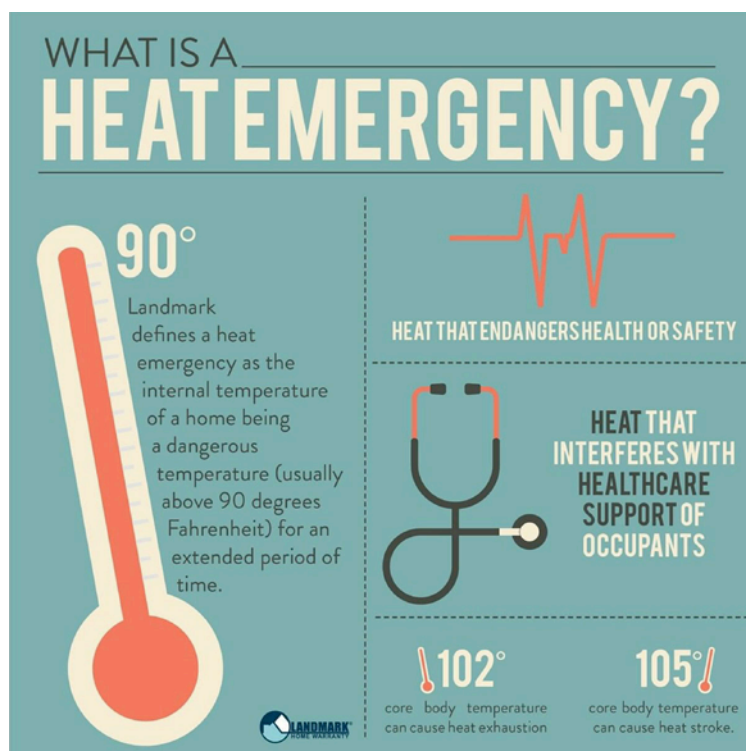
25           53. The same announcement then stated that "due to the various conditions that would  
26 define extreme heat" in Arizona, Landmark "will NOT establish a specific temperature for  
27 extreme heat."

28           54. This refusal to establish a definition stands in sharp contrast with Landmark's

1 contractual promise to consumers that the definition of “extreme temperatures” had been “defined  
2 by [Landmark].”

3 55. Landmark’s constantly shifting definitions for “extreme temperatures” are reflected  
4 in the advertising materials and social media posts of the company. In particular, Landmark has  
5 been inconsistent as to what qualifies as an emergency under this provision.

6 56. In an infographic provided on Landmark’s social media in April 2017, for example,  
7 Landmark defined a “heat emergency as temperatures above 90 degrees inside the consumer’s  
8 home for a constant 24 hour period” for all of the states it operates in.



23 57. Of course, this representation to consumers contradicted Landmark’s internal  
24 instructions to its employees.

25 58. Landmark’s true definition occasionally leaked out. For example, when an  
26 Arizonan complained on Facebook about Landmark’s failure to provide timely service in 2018,  
27 Landmark’s community manager stated that the definition was 100 degrees Fahrenheit outside for  
28 a constant 24-hour period.



1 **Landmark Home Warranty** Dear Mandy, Extreme temperatures would be defined as a complete loss  
2 of AC at 100 degrees for a constant 24 hours. Sincerely, Tiffany Nguyen Customer Relations Manager  
3 customerrelations@landmarkhw.com  
4 Aug 17, 2018, 12:48 PM

5 59. Consumers that filed formal complaints with the State were told equally inconsistent  
6 definitions, with some complainants being told the temperatures needed to be 90 degrees or higher  
7 inside the home while others were told 100 degrees.

8 60. The one common factor between these complaints was that Landmark manipulated  
9 its internal definition of “extreme temperatures” to deny consumers the right to the expedited  
10 services Landmark had promised to provide, which allowed Landmark to keep more of the money  
11 consumers had paid for Landmark’s services.

### 12 **III. Impact of Landmark’s Policies on Consumers**

13 61. Far from getting relief within 24 hours, Arizona consumers often waited weeks for  
14 repairs to be assessed and completed, all while suffering in the excruciating summer heat.

15 62. Some consumers have reported losing their pets to heat exhaustion, others have  
16 reported distress from children or the elderly in the hot home, and still others have been forced to  
17 stay at hotels and friends’ houses at great personal cost.

18 63. After being denied expedited services by Landmark, consumers could ask  
19 Landmark’s assigned third-party technician to provide expedited service, but the consumer would  
20 be responsible for any overtime or expedited rates the technician would charge to see them in a  
21 reasonable time.

22 64. Other consumers, frustrated by Landmark’s inability to offer them services in a  
23 timely manner, contacted other local technicians in the area who could fix their air conditioning  
24 systems quickly and efficiently.

25 65. Under the warranty, consumers could only use technicians outside of Landmark’s  
26 network if they received prior approval from Landmark.

27 66. When consumers contacted Landmark to obtain approval, however, Landmark  
28 typically refused to provide authorization, instead insisting that the consumer wait for Landmark’s

1 chosen third-party technician to arrive days, if not weeks, later.

2 67. After Landmark withheld authorization, if the consumers still decided to work with  
3 a technician outside Landmark's network, Landmark typically would deny the consumers' claims  
4 and refuse to pay for repairs.

5 68. In general, Landmark did not compensate these consumers for the losses caused by  
6 Landmark's failure to provide expedited services in a timely manner

7 69. It is likely that these consumers and others would not have entered into a contract  
8 with Landmark if they had known they would not receive expedited services for extreme  
9 temperatures in a state where air conditioning is critical.

10 70. It is likely that these consumers and others would not have entered into a contract  
11 with Landmark if they had known that over half of Landmark's customers would not get air  
12 conditioning repair service within a week in Arizona's scorching summers.

13 71. It is likely that these consumers and others would not have entered into a contract  
14 with Landmark if they had known that Landmark had established an internal definition of  
15 "extreme temperatures" for Arizona that made it virtually impossible for any Arizonan to receive  
16 expedited service for a broken air conditioner.

#### 17 **FIRST CLAIM FOR RELIEF**

#### 18 **VIOLATIONS OF THE ARIZONA CONSUMER FRAUD ACT, A.R.S. §§ 44-1521 to -1534**

19 72. The State realleges the prior allegations of this Complaint as though fully set forth  
20 herein.

21 73. The conduct described in the preceding paragraphs of this Complaint constitutes  
22 deception, deceptive or unfair acts or practices, fraud, false pretenses, false promises,  
23 misrepresentations, or concealment, suppression or omission of material facts with intent that  
24 others rely on such concealment, suppression or omission, in connection with the sale or  
25 advertisement of merchandise in violation of A.R.S. §§ 44-1521 to 44-1534, including, but not  
26 limited to:

27 a. Landmark engaged in deceptive and unfair acts and practices by  
28 misrepresenting to consumers in 2017 and 2018 that they would receive "reasonable efforts to

1 expedite services” in “extreme temperatures” even when Landmark’s undisclosed definitions of  
2 “extreme temperatures” for Arizona were impossible to meet;

3           b. Landmark engaged in deceptive and unfair acts and practices by concealing,  
4 suppressing, or omitting the material facts that the undisclosed definitions of Landmark’s  
5 “reasonable efforts to expedite services” in “extreme temperatures” policy ensured that Landmark  
6 would not provide expedited services;

7           c. Landmark engaged in deceptive and unfair acts and practices by  
8 misrepresenting that it had a definition of “extreme temperatures” in 2019 when it did not,  
9 allowing it to deny its Arizona consumers access to the expedited services that Landmark had  
10 promised to make reasonable efforts to provide;

11           d. Landmark engaged in deceptive and unfair acts and practices by concealing,  
12 suppressing, or omitting the material fact that it did not define “extreme temperatures” for Arizona  
13 in 2019;

14           e. Landmark engaged in deceptive and unfair acts and practices by touting its  
15 service as one that would assist consumers with air conditioning troubles quickly;

16           f. Landmark engaged in deceptive and unfair acts and practices by concealing,  
17 suppressing, or omitting the material facts that that less than 10% of its Arizona consumers would  
18 get service within 24 hours and about half of its Arizona customers would wait over a week for air  
19 conditioning service in the summer months;

20           g. Landmark engaged in unfair acts and practices by refusing to pre-authorize or  
21 pay for other technicians’ air conditioning repair work or replacements when its own technicians  
22 could not provide service within a reasonable period of time;

23           h. Landmark engaged in deceptive and unfair acts and practices by failing to  
24 make reasonable efforts to provide expedited services promised in the contract, sometimes taking  
25 30 days or more to complete the air conditioner repair as consumers suffered from the sweltering  
26 Arizona heat without relief; and

27           i. Landmark engaged in deceptive and unfair acts and practices by concealing,  
28 suppressing, or omitting the material facts that the promised expedited services could take 30 days

1 or more to complete the air conditioner repair.

2 74. With respect to the concealments, suppressions, or omissions of material fact  
3 described above, the State alleges Landmark did so with intent that others rely on such  
4 concealments, suppressions, or omissions.

5 75. With respect to the unfair acts and practices described above, the State alleges that  
6 these acts and practices caused or were likely to cause substantial injuries to consumers that were  
7 not reasonably avoidable by consumers and were not outweighed by countervailing benefits to  
8 consumers or to competition.

9 76. With respect to the unfair acts and practices described above, the State alleges that  
10 Landmark knew or should have known their conduct was of the nature prohibited by the CFA.

11 77. With respect to the acts and practices alleged in this Complaint, Landmark was at all  
12 times acting willfully as provided by A.R.S. § 44-1531(B).

13 **PRAYER FOR RELIEF**

14 WHEREFORE, the State respectfully requests that the Court:

15 78. Pursuant to A.R.S. § 44-1528(A), issue a permanent injunction, enjoining and  
16 restraining (a) Landmark, (b) its officers, agents, servants, employees, and attorneys and (c) all  
17 persons in active concert or participation with anyone described in part (a) or (b) of this  
18 paragraph, directly or indirectly, from engaging in deceptive, misleading, or unfair acts or  
19 practices, or concealments, suppressions, or omissions, that violate the CFA, A.R.S. § 44-  
20 1522(A);

21 79. Pursuant to A.R.S. § 44-1528(A)(2), order Landmark to restore to all persons in  
22 interest any monies or property, real or personal, in the amount of at least \$14,702,000, which  
23 may have been acquired by any means or any practice in this article declared to be unlawful;

24 80. Pursuant to A.R.S. § 44-1528(A)(3), order Landmark to disgorge all profits, gains,  
25 gross receipts, or other benefits obtained as a result of their unlawful acts alleged herein; in the  
26 amount of at least \$14,702,000;

27 81. Pursuant to A.R.S. § 44-1531, order Landmark to pay to the State a civil penalty of  
28 up to \$10,000 for each willful violation of A.R.S. § 44-1522;

82. Pursuant to A.R.S. § 44-1534, order Landmark to reimburse the State for its costs and attorneys' fees incurred in the investigation and prosecution of the Landmark's activities alleged in this Complaint;

83. Pursuant to A.R.S. § 44-1201, require Landmark to pay pre-judgment and post-judgment interest to the State and all consumers; and

84. Award the State such further relief the Court deems just and proper under the circumstances.

DATED this 25th day of January 2021.

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